

Exhibit 10

Declaration of John Krokos

1. My name is John Krokos. I was incarcerated at the Butner LSCI (“Low”), in housing unit Vance B, at FCC Butner until May 12, 2020. My Bureau of Prisons Register Number was 64044-112.
2. I am currently staying with my sister, Zoe Krokos, at 625 Windsor Avenue, Kamloops, BC V2B 2B2, Canada.
3. I am 47 years old.
4. I entered custody in May 2014. I was serving a 136-month sentence for conspiracy to possess and distribute cocaine.
5. In 2017, I was transferred to FCC Butner Federal Medical Center for treatment of non-Hodgkin’s lymphoma. I was treated for non-Hodgkin’s lymphoma and kidney cancer while at FCC Butner Federal Medical Center.
6. In 2018, my medical provider determined that my cancer was in remission and I was transferred to Butner LSCI. I was still experiencing significant pain in my left kidney and I was concerned that my cancer was not completely cured.
7. I continued to complain of pain in my kidney. I was finally able to see a urologist in about January 2020. The urologist told me that my medical state was concerning and that I would need to have a biopsy as soon as possible.
8. I never received the biopsy while I was incarcerated at Butner. I learned from my attorney that the biopsy had been scheduled for March 20th, but did not occur on that date. I never heard anything from Butner staff about when I would be able to receive the biopsy.
9. I am still experiencing kidney pain and was in persistent pain while I sought and awaited medical treatment at Butner.
10. Because of my prior chemotherapy cancer treatments, I also have a suppressed immune system. I am at increased risk of infection and I am more susceptible to colds and flus. Because of this, I am also increasingly concerned about catching the novel coronavirus.
11. I was particularly concerned about contracting the novel coronavirus while incarcerated at Butner, because there was no way to observe the recommended practices to keep safe, such as staying six feet from other people. The close proximity to people was unescapable.
12. Butner LSCI was first placed on a modified lockdown in the beginning of March 2020. During the modified lockdown, only one unit was allowed out to the recreation yard for a couple hours at a time. One unit at a time would go to the chow hall to pick up meal bags and take them back to our housing unit. We were told by prison staff that the partial lockdown was not disciplinary and was implemented to address the threat of Covid-19 and would be adjusted on a week-by-week basis.

13. A few weeks later, in about mid-March, we were placed on a full lockdown. Around the same time, I learned from online news and legal organizations that people had been diagnosed with Covid-19 at Butner's medium security facility. I believe the full lockdown was instituted because people in the facility had contracted Covid-19.
14. Under full lockdown, people are not allowed to leave their unit for any reason.
15. At Butner LSCI, I was housed in a dormitory-style housing unit of about 147 to 160 men in cubicles. In my unit, Vance B, there were about 62 cubicles. Approximately seven cubicles are smaller, and are occupied by a single person with a hospital bed and a wheelchair. About 10 cubicles are also smaller and are occupied by two people with bunked beds. The rest of the cubicles, including mine, are about 80 square feet and are occupied by three people.
16. In a three-person cell, there are two bunked beds on one wall, and a third bed on another wall. There are also three upright lockers that are approximately two feet by two feet by three feet, a single plastic chair, and a footstool used to reach the top bunk. There is about 20 square feet of remaining floor space.
17. The cubicles are divided from one another by a small wall that is about five and a half feet tall. When a person is on the top bunk, they are above the height of the dividing wall.
18. In my cubicle, I was always within six feet of another person. In addition to the two people with whom I shared the cubicle, the people on the other side of the dividing wall were also well within six feet of me.
19. All of the cubicles in my unit were occupied. At most times, about all of the beds were occupied. In about the past month that I was at Butner, some people started to be released or transferred, so that a few of the top Bunks were empty. I believe approximately 13 people had left the unit by the time I was released.
20. There were not enough people released to allow for social distancing from other people, or to keep spaces and items used by multiple people clean and sanitized.
21. At the start of the lockdown, we were told that we had to remain in our cubicles. This ended very soon because people had to be able to leave the cubicle to use the restroom, take a shower, use the phone, or other things. With about 160 men in the unit, there was not system to coordinate access to these necessities while keeping everyone in their cells.
22. In addition to the cubicles, my unit included an open common area at the front that is approximately 10 feet by 30 feet. At the front of this area is the Correctional Officer's ("CO") station. Also at this front area of the facility are telephones, a computer room, a kitchen, a laundry room, and a television room. The bathrooms are located on either side of the CO's station.
23. Once the facility was placed on full lockdown, this common area became even more congested than it would have been under regular conditions.

24. To the side of the common area was a television room. The television room is about 50 by 100 feet. It is the largest space in the unit. The television room was closed at the start of the full lockdown. This further limited the amount of space within the unit and the ability to stay at a distance from one another.
25. On the day before I was released, I read a notice that they were going to reopen the television room on a trial basis.
26. Because the television room was closed, people used the common area as a makeshift seating area to play cards.
27. During the full lockdown, we were not allowed to go outside at all. At first, we had no ability to exercise. After about a couple weeks, they brought exercise mats into the common area, so that people could do exercises like push-ups or yoga on the mats. They provided cleaning liquid and a rag to wipe down the mats.
28. In prison, we had to stand in line for many things. There were even more lines to stand in under lockdown. Almost anything you needed during lockdown was located at or distributed from the common area, and for any of these things, people had to wait in line through the common area and back into the halls between cubicles. Telephones were at one side of the common area, and people would line up waiting to use the phones. People lined up for pill call, sick call, mail distribution, and distribution of commissary items, which all occurred in front of the CO station in the common area. Meals were also brought to the unit, and most times, we would pick up our meals in front of the CO station or at the doorway to the unit, meaning that people were again lined up through the common area. People also waited in line to use the laundry room off the common area. There were commonly about 60 men in a line for pills or food. Men were never socially distanced when waiting in line, and would be in very close distance from one another. Many people in line would not be wearing a mask.
29. There was no fresh air in the unit. There was never an open window. There was an HVAC system, but I do not know how well it was maintained. It always felt dusty and people would cough and sneeze. During lockdown, the only chance I had for a breath of fresh air was if a CO would distribute meals at the open entry door of the unit.
30. Inmates are responsible for cleaning their own cubicles. We were not issued cleaning supplies to use in cleaning our cubicles. The cleanliness of the individual cubicle depends upon the people housed there. Many people in my unit were elderly or had illnesses or disabilities, and it was difficult for them to keep things clean.
31. The kitchen room is approximately four feet by eight feet and contains a sink for washing dishes, a place to get hot water, and an ice machine. The kitchen was supposed to be cleaned every morning by an inmate, although this did not always happen. With about 160 men using the kitchen, it was always dirty and everyone touched the same items and surfaces. The ice runs out from time to time, and men will line up waiting for ice.

32. At the front of the unit is a laundry room. The laundry room was closed for about the first couple weeks of the lockdown. Many men complained about the inability to wash things and keep things clean during the pandemic. Eventually the laundry room was reopened.
33. There are eight phones in the unit, but only three were operable. When we went on lockdown, staff turned off every other phone to try to maintain social distance between inmates. Even with every other phone in use, there was only about three feet of space between people. Because there were fewer phones, you could wait for around 45 minutes to use the phone, and there was no distance between people waiting in line to use the phone.
34. Phones are cleaned in the morning, but they do not get cleaned between uses.
35. There about four computers in a computer room for use by the men in the housing unit. There is about one and a half feet of space between computers. The computers are more or less always in use from when the room opens after the 5 a.m. count until 11:30 p.m., when it closes.
36. The computer room is wiped down in the morning, but not throughout the day as people use it.
37. The computer room was closed at the start of the full lockdown and was reopened in approximately mid-April.
38. All approximately 160 people in the housing unit share about 12 toilets, 12 showers, and 16 sinks. The toilets are less than two to three feet from each other, with a stall divider. The showers are about two to three feet from each other, with a dividing wall between them that is about five and a half feet tall. The sinks are less than a foot from each other. People are on top of each other in the bathrooms. You were always beside someone when using the sinks or toilets, and they were constantly occupied.
39. Bathrooms are cleaned once a day in the morning, but this is not sufficient for the number of people using them, and they become dirty again within minutes. I frequently saw hairs from shaving, toothpaste, scum, and saliva left on and around the sinks. I did not want to touch any part of it. I did my best to clean things before I used them, but this was limited by what limited access to cleaning supplies I had.
40. During the lockdown, we were allowed to go about once every two weeks to the cleaning room to get to some form of watered-down chemical to clean. It was a clear liquid, but I do not know what it was. You had to have your own spray bottle to fill with the solution. If you did not have a spray bottle, you had no way of getting the cleaning solution. Spray bottles were not issued or sold at the commissary.
41. We were never supposed to have a spray bottle in our cubicles, but the COs seemed to understand that we needed them to keep things clean, and they did not say anything if you had a spray bottle.
42. At one point early in the lockdown, a unit manager said that we would be getting disinfectant wipes every day, but that never happened.

43. About once a week, men came in with tanks of some form of disinfectant spray to spray down the bathroom areas and the outside walls of the cubicles. However, because there were always people around and in the cubicles, they did not always spray things down in a thorough manner.
44. In about mid-April, everyone was given a cloth mask. A couple weeks later, we received a second cloth mask. The masks were made in the UNICOR facility. They were made of a very thin, single layer fabric. I wore both of my masks at the same time to create a thicker layer of protection. If you held the masks up to the light, even when they were doubled up, you could see through them. The masks also did not have a tight fit.
45. Not everyone wore masks. Less than a quarter of the men wore their masks while moving around the unit. When a warden or other more senior staff member visited the unit, for example to distribute meals, COs would tell people to wear masks. But people would take off their mask as soon as they picked up their meal.
46. Staff members did have masks, although not everyone wore them. Some of the masks I saw staff wearing appeared to be medical grade, made of a blue synthetic material and with a nose bridge. Others wore cloth masks, but these were not the same masks that we were issued.
47. About 40% of the COs did not wear masks regularly. They wore masks only when a captain or warden would come into the unit. Even the COs who wore masks regularly would sometimes take them down, for example when they would yell commands.
48. Most of the COs started wearing gloves once we went on lockdown.
49. During lockdown, meals are brought to the housing unit on a cart three times a day. Sometimes a CO will bring the breakfast meal around to the cubicles. Otherwise, everyone has to line up to get their meals. People in the lines are right on top of each other, with less than a foot space between them.
50. The food we received during lockdown was not of the same quality that we received previously. For breakfast, we would receive a small amount of cereal, milk and a piece of fruit. For dinner and lunch, as a vegetarian, I received four slices of bread, some jam, and peanut butter. Sometimes for lunch there would be a small scoop of canned vegetables. The non-vegetarians received a slice of lunchmeat. It was the same thing for every meal, every day. In the week before I was released, I got some broccoli and cauliflower with a meal, which was amazing after months of eating the same sandwiches and almost no vegetables.
51. I do not know of a single person in my housing unit who has been tested for the coronavirus.
52. While I was there, there were never regular temperature checks conducted in my unit.
53. If a person in the housing unit thinks he might have a fever, the only way for him to get checked is by putting in a request for sick call. Sick call costs \$2.

54. Some people might not report feeling a fever because they do not want to be placed in solitary confinement to isolate. Staff had told us that sick people were quarantined in isolation. I heard from one inmate who worked in the commissary with people from other units that there were people with fevers who did not report them. Once another person told the staff about those people, the staff went and checked their temperatures and removed them from the unit.
55. In preparation for my release, they started taking my temperature on a daily basis about a week before I was released. I did not have my temperature checked routinely before this during the lockdown.
56. People who leave the unit to work are also supposed to get their temperatures checked. Staff call for them to line up to have their temperatures checked, but this was not enforced. I saw one person who did not go up to get his temperature checked before going to work.
57. In about the middle of April, I heard from other inmates that two new men had been brought into the low facility, with one placed at the Durham B housing unit, in sight of my own unit, and one at Granville A. Within about seven days, the men were suddenly removed again.
58. About a week and a half after these men left, people started coming down with temperatures and being taken away to quarantine. I and others in my housing unit saw through our windows that about nine men were taken out of the Durham B housing unit.
59. I heard from another man who had a work detail that three people had been removed from Vance A because they had a temperature.
60. Just before I was released, one of the COs told us that people in the Vance A unit, next to my unit, and Durham B, directly up the road from us, started getting sick. He told us that Vance B was one of the few units where people were not yet getting sick. He said that because of this, he did not mind working at Vance B, but was worried about working in the other units.
61. Shortly after I saw the men being removed from Durham B, I could hear they started to do temperature checks. I heard them calling over the loud speaker for people to line up for temperature checks in those units. I heard the call for temperature checks at Durham B daily. I heard the call for temperature checks at Vance A less often.
62. At one point, at about the end of March, staff told us that there had been no cases of covid-19 at the Low facility. But around the same time, I saw on the news that there were cases at Low.
63. About 20 to 30 people in my housing unit had jobs that take them off the unit. They go to their jobs and work with people from other housing units. I know this because they tell me about their conversations with people from other units. These people mainly work in the commissary, laundry, food services, or UNICOR.

64. One of the men from another housing unit who worked in the commissary was moved to isolation because he was believed to have Covid-19. I learned this from someone in my unit who worked with him at the commissary.
65. Correctional officers and other staff move between housing units. For example, two officers are always needed to conduct the count. The officer in Vance A will go to help with the count in Vance B, and the officer in Vance B will go to help with the count in Vance A.
66. At the start of the lockdown, at least one of the COs who was working in the kitchen was also working in the SHU, where sick people were held for isolation. He told us that he was experiencing stress about having to work in the SHU. About a month into the lockdown, I heard that they had stopped rotating the COs through the SHU because none of them wanted to work there. They brought in contract workers to work in the SHU.
67. Apart from my request for compassionate release, I never filed an administrative grievance or request while at Butner. When you file a grievance in prison, you might lose your job or get liberties taken away. It is not something that people are willing to do often because of the repercussions. I saw it happen to others. For example, someone who filed a grievance against an old boss at UNICOR was then fired from the job. That discouraged me from filing a grievance. Prison is hard enough; I did not want to be on the bad side of a corrections officer.
68. I did go through the administrative process to seek compassionate release. That is the only time I went through the process. My lawyer eventually petitioned the court for my release. I was very lucky to have a lawyer and the Canadian embassy helping me through the process. It took about nine months for me to obtain compassionate release, even with these sources of assistance.
69. When you file a grievance, you have to provide four copies of the grievance. However, when you requested grievance forms, you would sometimes only receive three copies. Then you would receive a response that your request was denied because you did not send four copies. I knew of about 10 people whose grievances were denied for this reason. People would have to count the number of copies in the package when they requested it from the counselor to make sure that it contained four pages.
70. Sometimes the staff would ask for an extension in responding to a grievance. There was no way to expedite the process.
71. On about May 10th, a paper notice was posted in my housing unit informing us that there was a delay in processing Administrative Remedies requests because they had too many requests to handle. In my recollection, the posting said that they did not have forms available in order to fill out a request.

72. I am making this statement in support of a lawsuit to make FCC Butner change its policies and practices relating to the protection of the people in its custody from the risk from Covid-19.

Pursuant to 28 U.S.C. § 1764, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed May 19, 2020

By: 

John Krokos